

Remarks/Arguments

In the Specification, the paragraph beginning at page 6, line 12 has been inserted. It includes a selected portion of the Lahl et al. reference which was incorporated by reference on page 5, lines 27-31. Its incorporation by reference complies with MPEP § 608.01(p) which provides that: "Non-essential matter may be incorporated by reference to . . . (3) non-patent publications . . ." *Id.* The new paragraph discusses in general terms the notion of a material containing glass in contrast to a phase change to a crystalline state. It discusses devitrification in most of the samples tested therein. This reference therefore supports the limitation that appears in claims 1, 5, and 19 that the matrix composition may remain "in a glassy state after sealing . . ." The absence of devitrification implies "remaining glassy".

In the amended Figure 1b, the ternary diagram has been corrected where shown, as has the supporting data table in Figure 2.

Claims 1-6 & 13-20 remain in this application. Claims 7-12 were withdrawn as the result of an earlier restriction requirement. In view of that requirement, Applicant retains the right to present the withdrawn claims in a divisional application.

In the previous Office Action, claims 1-6 were rejected under 35 U.S.C. § 112, ¶ 1. Applicant respectfully observes that the recitation in claims 1, 3 and 6 of the "matrix composition remaining in a glassy state after sealing . . ." is described by the Lahl et al. publication which was incorporated by reference. The temperature for sealing has been changed to "up to 1200°C." This temperature range is supported by the Specification "upon firing at about 1150°-1200°C." Specification, p. 9. Additionally, the Specification references: "During sealing near 1200°C". *Id.*, p. 10.

For these reasons, the rejection under 35 U.S.C. ¶ 1 of claims 1-6 has been overcome.

Claims 1 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by Gardner (USPN 3,935,017). Attachment A to this Amendment is a ternary diagram posited by the inventor. The table below compares the ranges of claim 1 to those defined in example G1 of the '017 reference:

Claim 1	'017 Ex. G1
$56 < \text{SiO}_2 < 75$	60
$11 < \text{BaO} < 30$	25
$2 < \text{MgO} < 14$	15

This table and Attachment A show that Example G1 of the '017 reference lies outside the boundary of the claimed compositions, such that a rejection under 35 U.S.C. § 102 is improper. Similar comments are applicable to the rejection of claim 5 under 35 U.S.C. § 102(b), since claim 5 incorporates the limitations of claim 1.

In Attachment A, the change in range is posited as “revised #1”. The major change is a decrease in the MgO composition upper limit from 22% to 14%.

The newly presented and currently amended claims have been drafted with the Examiner's observations in mind and to define the invention more clearly.

Applicant believes that all substantive and formal requirements for patentability are now met. A Notice of Allowability is therefore requested. If a telephone interview would be helpful in expediting prosecution, the Examiner is asked to contact the undersigned.

Respectfully submitted,

GARY MARK CROSBIE

By W. G. Abbatt
William G. Abbatt
Reg. No. 31,936
Attorney/Agent for Applicant

Date: May 27, 2003

BROOKS & KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351